

AMENDED IN ASSEMBLY JUNE 16, 2015

AMENDED IN SENATE APRIL 13, 2015

SENATE BILL

No. 337

Introduced by Senator Pavley

February 23, 2015

An act to amend Sections 3501, 3502, and 3502.1 of the Business and Professions Code, relating to healing arts.

LEGISLATIVE COUNSEL'S DIGEST

SB 337, as amended, Pavley. Physician assistants.

Existing law, the Physician Assistant Practice Act, provides for regulation of physician assistants and authorizes a physician assistant to perform medical services as set forth by regulations when those services are rendered under the supervision of a licensed physician and surgeon, as specified. The act requires the supervising physician and surgeon to review, countersign, and date a sample consisting of, at a minimum, 5% of the medical records of patients treated by the physician assistant functioning under adopted protocols within 30 days of the date of treatment by the physician assistant. The act requires the supervising physician and surgeon to select for review those cases that by diagnosis, problem, treatment, or procedure represent, in his or her judgment, the most significant risk to the patient. A violation of those supervision requirements is a misdemeanor.

This bill would require that the medical record for each episode of care for a patient identify the physician and surgeon who is responsible for the supervision of the physician assistant. ~~The bill would require a physician assistant who transmits an oral order to identify the name of the supervising physician and surgeon responsible for the patient.~~ The bill would delete those medical record review provisions, and, instead,

require the supervising physician and surgeon to use one or more of described review mechanisms. By adding these new requirements, the violation of which would be a crime, this bill would impose a state-mandated local program by changing the definition of a crime.

The act authorizes a physician assistant, while under prescribed supervision of a physician and surgeon, to administer or provide medication to a patient, or transmit orally, or in writing on a patient's record or in a drug order, an order to a person who may lawfully furnish the medication or medical device. The act prohibits a physician assistant from administering, providing, or issuing a drug order to a patient for Schedule II through Schedule V controlled substances without advance approval by a supervising physician and surgeon for that particular patient unless the physician assistant has completed an education course that covers controlled substances and that meets approved standards. The act requires that the medical record of any patient cared for by a physician assistant for whom a physician assistant's Schedule II drug order has been issued or carried out to be reviewed, countersigned, and dated by a supervising physician and surgeon within 7 days.

This bill would delete that review and countersignature requirement for a physician assistant's Schedule II drug order, and, instead, require that the supervising physician and surgeon use one of 2 described mechanisms to ensure adequate supervision of the administration, provision, or issuance by a physician assistant of a drug order to a patient for Schedule II controlled substances.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 3501 of the Business and Professions
- 2 Code is amended to read:
- 3 3501. (a) As used in this chapter:
- 4 (1) "Board" means the Physician Assistant Board.
- 5 (2) "Approved program" means a program for the education of
- 6 physician assistants that has been formally approved by the board.

1 (3) “Trainee” means a person who is currently enrolled in an
2 approved program.

3 (4) “Physician assistant” means a person who meets the
4 requirements of this chapter and is licensed by the board.

5 (5) “Supervising physician” or “supervising physician and
6 surgeon” means a physician and surgeon licensed by the Medical
7 Board of California or by the Osteopathic Medical Board of
8 California who supervises one or more physician assistants, who
9 possesses a current valid license to practice medicine, and who is
10 not currently on disciplinary probation for improper use of a
11 physician assistant.

12 (6) “Supervision” means that a licensed physician and surgeon
13 oversees the activities of, and accepts responsibility for, the medical
14 services rendered by a physician assistant.

15 (7) “Regulations” means the rules and regulations as set forth
16 in Chapter 13.8 (commencing with Section 1399.500) of Title 16
17 of the California Code of Regulations.

18 (8) “Routine visual screening” means uninvase
19 nonpharmacological simple testing for visual acuity, visual field
20 defects, color blindness, and depth perception.

21 (9) “Program manager” means the staff manager of the diversion
22 program, as designated by the executive officer of the board. The
23 program manager shall have background experience in dealing
24 with substance abuse issues.

25 (10) “Delegation of services agreement” means the writing that
26 delegates to a physician assistant from a supervising physician the
27 medical services the physician assistant is authorized to perform
28 consistent with subdivision (a) of Section 1399.540 of Title 16 of
29 the California Code of Regulations.

30 (11) “Other specified medical services” means tests or
31 examinations performed or ordered by a physician assistant
32 practicing in compliance with this chapter or regulations of the
33 Medical Board of California promulgated under this chapter.

34 (12) “Medical records review meeting” means a meeting
35 between the supervising physician *and surgeon* and the physician
36 assistant during which ~~a sample of medical records is~~ *are* reviewed
37 to ensure adequate supervision of the physician assistant
38 functioning under protocols. ~~The number of medical records and~~
39 ~~the specific issues to be reviewed shall be established in the~~

1 ~~delegation of services agreement. Medical records review meetings~~
2 ~~may occur in person or by electronic communication.~~

3 (b) A physician assistant acts as an agent of the supervising
4 physician when performing any activity authorized by this chapter
5 or regulations adopted under this chapter.

6 SEC. 2. Section 3502 of the Business and Professions Code is
7 amended to read:

8 3502. (a) Notwithstanding any other law, a physician assistant
9 may perform those medical services as set forth by the regulations
10 adopted under this chapter when the services are rendered under
11 the supervision of a licensed physician and surgeon who is not
12 subject to a disciplinary condition imposed by the Medical Board
13 of California prohibiting that supervision or prohibiting the
14 employment of a physician assistant. The medical record, for each
15 episode of care for a patient, shall identify the physician and
16 surgeon who is responsible for the supervision of the physician
17 assistant. ~~When a physician assistant transmits an oral order, he~~
18 ~~or she shall also identify the name of the supervising physician~~
19 ~~and surgeon responsible for the patient.~~

20 (b) (1) Notwithstanding any other law, a physician assistant
21 performing medical services under the supervision of a physician
22 and surgeon may assist a doctor of podiatric medicine who is a
23 partner, shareholder, or employee in the same medical group as
24 the supervising physician and surgeon. A physician assistant who
25 assists a doctor of podiatric medicine pursuant to this subdivision
26 shall do so only according to patient-specific orders from the
27 supervising physician and surgeon.

28 (2) The supervising physician and surgeon shall be physically
29 available to the physician assistant for consultation when that
30 assistance is rendered. A physician assistant assisting a doctor of
31 podiatric medicine shall be limited to performing those duties
32 included within the scope of practice of a doctor of podiatric
33 medicine.

34 (c) (1) A physician assistant and his or her supervising physician
35 and surgeon shall establish written guidelines for the adequate
36 supervision of the physician assistant. This requirement may be
37 satisfied by the supervising physician and surgeon adopting
38 protocols for some or all of the tasks performed by the physician
39 assistant. The protocols adopted pursuant to this subdivision shall
40 comply with the following requirements:

1 (A) A protocol governing diagnosis and management shall, at
2 a minimum, include the presence or absence of symptoms, signs,
3 and other data necessary to establish a diagnosis or assessment,
4 any appropriate tests or studies to order, drugs to recommend to
5 the patient, and education to be provided to the patient.

6 (B) A protocol governing procedures shall set forth the
7 information to be provided to the patient, the nature of the consent
8 to be obtained from the patient, the preparation and technique of
9 the procedure, and the followup care.

10 (C) Protocols shall be developed by the supervising physician
11 and surgeon or adopted from, or referenced to, texts or other
12 sources.

13 (D) Protocols shall be signed and dated by the supervising
14 physician and surgeon and the physician assistant.

15 (2) (A) The supervising physician and surgeon shall use one
16 or more of the following mechanisms to ensure adequate
17 supervision of the physician assistant functioning under the
18 protocols:

19 (i) The supervising physician and surgeon shall review,
20 countersign, and date a sample consisting of, at a minimum, 5
21 percent of the medical records of patients treated by the physician
22 assistant functioning under the protocols within 30 days of the date
23 of treatment by the physician assistant.

24 (ii) The supervising physician and surgeon and physician
25 assistant shall conduct ~~at least 10 times annually~~ a medical records
26 review ~~meeting, which may occur in person or by electronic~~
27 ~~communication.~~ *meeting, at least once a month during at least 10*
28 *months of the year. During any month in which a medical records*
29 *review meeting occurs, the supervising physician and surgeon and*
30 *physician assistant shall review an aggregate of at least 10 medical*
31 *records of patients treated by the physician assistant functioning*
32 *under protocols. Documentation of medical records reviewed*
33 *during the month shall be jointly signed and dated by the*
34 *supervising physician and surgeon and the physician assistant.*

35 (iii) The supervising physician and surgeon shall supervise the
36 care provided by the physician assistant through a review of ~~those~~
37 ~~cases or patients deemed appropriate~~ *cases involving treatment by*
38 *the physician assistant functioning under protocols adopted by*
39 *the supervising physician and surgeon. The review methods used*
40 *shall be identified in the delegation of services agreement, and*

1 ~~review may occur in person or by electronic communication.~~
2 ~~agreement and shall include no less than an aggregate of 10 cases~~
3 ~~per month for at least 10 months of the year. Documentation of~~
4 ~~the cases reviewed during the month shall be jointly signed and~~
5 ~~dated by the supervising physician and surgeon and the physician~~
6 ~~assistant.~~

7 (B) In complying with subparagraph (A), the supervising
8 physician and surgeon shall select for review those cases that by
9 diagnosis, problem, treatment, or procedure represent, in his or
10 her judgment, the most significant risk to the patient.

11 (3) Notwithstanding any other law, the Medical Board of
12 California or the board may establish other alternative mechanisms
13 for the adequate supervision of the physician assistant.

14 (d) No medical services may be performed under this chapter
15 in any of the following areas:

16 (1) The determination of the refractive states of the human eye,
17 or the fitting or adaptation of lenses or frames for the aid thereof.

18 (2) The prescribing or directing the use of, or using, any optical
19 device in connection with ocular exercises, visual training, or
20 orthoptics.

21 (3) The prescribing of contact lenses for, or the fitting or
22 adaptation of contact lenses to, the human eye.

23 (4) The practice of dentistry or dental hygiene or the work of a
24 dental auxiliary as defined in Chapter 4 (commencing with Section
25 1600).

26 (e) This section shall not be construed in a manner that shall
27 preclude the performance of routine visual screening as defined
28 in Section 3501.

29 (f) Compliance by a physician assistant and supervising
30 physician and surgeon with this section shall be deemed
31 compliance with Section 1399.546 of Title 16 of the California
32 Code of Regulations.

33 SEC. 3. Section 3502.1 of the Business and Professions Code
34 is amended to read:

35 3502.1. (a) In addition to the services authorized in the
36 regulations adopted by the Medical Board of California, and except
37 as prohibited by Section 3502, while under the supervision of a
38 licensed physician and surgeon or physicians and surgeons
39 authorized by law to supervise a physician assistant, a physician
40 assistant may administer or provide medication to a patient, or

1 transmit orally, or in writing on a patient's record or in a drug
2 order, an order to a person who may lawfully furnish the
3 medication or medical device pursuant to subdivisions (c) and (d).

4 (1) A supervising physician and surgeon who delegates authority
5 to issue a drug order to a physician assistant may limit this authority
6 by specifying the manner in which the physician assistant may
7 issue delegated prescriptions.

8 (2) Each supervising physician and surgeon who delegates the
9 authority to issue a drug order to a physician assistant shall first
10 prepare and adopt, or adopt, a written, practice specific, formulary
11 and protocols that specify all criteria for the use of a particular
12 drug or device, and any contraindications for the selection.
13 Protocols for Schedule II controlled substances shall address the
14 diagnosis of illness, injury, or condition for which the Schedule II
15 controlled substance is being administered, provided, or issued.
16 The drugs listed in the protocols shall constitute the formulary and
17 shall include only drugs that are appropriate for use in the type of
18 practice engaged in by the supervising physician and surgeon.
19 When issuing a drug order, the physician assistant is acting on
20 behalf of and as an agent for a supervising physician and surgeon.

21 (b) "Drug order," for purposes of this section, means an order
22 for medication that is dispensed to or for a patient, issued and
23 signed by a physician assistant acting as an individual practitioner
24 within the meaning of Section 1306.02 of Title 21 of the Code of
25 Federal Regulations. Notwithstanding any other provision of law,
26 (1) a drug order issued pursuant to this section shall be treated in
27 the same manner as a prescription or order of the supervising
28 physician, (2) all references to "prescription" in this code and the
29 Health and Safety Code shall include drug orders issued by
30 physician assistants pursuant to authority granted by their
31 supervising physicians and surgeons, and (3) the signature of a
32 physician assistant on a drug order shall be deemed to be the
33 signature of a prescriber for purposes of this code and the Health
34 and Safety Code.

35 (c) A drug order for any patient cared for by the physician
36 assistant that is issued by the physician assistant shall either be
37 based on the protocols described in subdivision (a) or shall be
38 approved by the supervising physician and surgeon before it is
39 filled or carried out.

1 (1) A physician assistant shall not administer or provide a drug
2 or issue a drug order for a drug other than for a drug listed in the
3 formulary without advance approval from a supervising physician
4 and surgeon for the particular patient. At the direction and under
5 the supervision of a physician and surgeon, a physician assistant
6 may hand to a patient of the supervising physician and surgeon a
7 properly labeled prescription drug prepackaged by a physician and
8 surgeon, manufacturer as defined in the Pharmacy Law, or a
9 pharmacist.

10 (2) A physician assistant shall not administer, provide, or issue
11 a drug order to a patient for Schedule II through Schedule V
12 controlled substances without advance approval by a supervising
13 physician and surgeon for that particular patient unless the
14 physician assistant has completed an education course that covers
15 controlled substances and that meets standards, including
16 pharmacological content, approved by the board. The education
17 course shall be provided either by an accredited continuing
18 education provider or by an approved physician assistant training
19 program. If the physician assistant will administer, provide, or
20 issue a drug order for Schedule II controlled substances, the course
21 shall contain a minimum of three hours exclusively on Schedule
22 II controlled substances. Completion of the requirements set forth
23 in this paragraph shall be verified and documented in the manner
24 established by the board prior to the physician assistant's use of a
25 registration number issued by the United States Drug Enforcement
26 Administration to the physician assistant to administer, provide,
27 or issue a drug order to a patient for a controlled substance without
28 advance approval by a supervising physician and surgeon for that
29 particular patient.

30 (3) Any drug order issued by a physician assistant shall be
31 subject to a reasonable quantitative limitation consistent with
32 customary medical practice in the supervising physician and
33 surgeon's practice.

34 (d) A written drug order issued pursuant to subdivision (a),
35 except a written drug order in a patient's medical record in a health
36 facility or medical practice, shall contain the printed name, address,
37 and telephone number of the supervising physician and surgeon,
38 the printed or stamped name and license number of the physician
39 assistant, and the signature of the physician assistant. Further, a
40 written drug order for a controlled substance, except a written drug

order in a patient's medical record in a health facility or a medical practice, shall include the federal controlled substances registration number of the physician assistant and shall otherwise comply with Section 11162.1 of the Health and Safety Code. Except as otherwise required for written drug orders for controlled substances under Section 11162.1 of the Health and Safety Code, the requirements of this subdivision may be met through stamping or otherwise imprinting on the supervising physician and surgeon's prescription blank to show the name, license number, and if applicable, the federal controlled substances registration number of the physician assistant, and shall be signed by the physician assistant. When using a drug order, the physician assistant is acting on behalf of and as the agent of a supervising physician and surgeon.

(e) The supervising physician and surgeon shall use either of the following mechanisms to ensure adequate supervision of the administration, provision, or issuance by a physician assistant of a drug order to a patient for Schedule II controlled substances:

(1) The medical record of any patient cared for by a physician assistant for whom the physician assistant's Schedule II drug order has been issued or carried out shall be reviewed, countersigned, and dated by a supervising physician and surgeon within seven days.

(2) If the physician assistant has documentation evidencing the successful completion of an education course that covers controlled substances, and that controlled substance education course (A) meets the standards, including pharmacological content, ~~approved by the board, established in Sections 1399.610 and 1399.612 of Title 16 of the California Code of Regulations, and~~ (B) is provided either by an accredited continuing education provider or by an approved physician assistant training program, ~~and (C) satisfies Sections 1399.610 and 1399.612 of Title 16 of the California Code of Regulations,~~ the supervising physician and surgeon shall review, countersign, and date, within seven days, a sample consisting of the medical records of at least 20 percent of the patients cared for by the physician assistant for whom the physician assistant's Schedule II drug order has been issued or carried out. Completion of the requirements set forth in this paragraph shall be verified and documented in the manner established in Section 1399.612 of Title 16 of the California Code of Regulations. Physician assistants who

1 have a certificate of completion of the course described in
2 paragraph (2) of subdivision (c) shall be deemed to have met the
3 education course requirement of this subdivision.

4 (f) All physician assistants who are authorized by their
5 supervising physicians to issue drug orders for controlled
6 substances shall register with the United States Drug Enforcement
7 Administration (DEA).

8 (g) The board shall consult with the Medical Board of California
9 and report during its sunset review required by Article 7.5
10 (commencing with Section 9147.7) of Chapter 1.5 of Part 1 of
11 Division 2 of Title 2 of the Government Code the impacts of
12 exempting Schedule III and Schedule IV drug orders from the
13 requirement for a physician and surgeon to review and countersign
14 the affected medical record of a patient.

15 SEC. 4. No reimbursement is required by this act pursuant to
16 Section 6 of Article XIII B of the California Constitution because
17 the only costs that may be incurred by a local agency or school
18 district will be incurred because this act creates a new crime or
19 infraction, eliminates a crime or infraction, or changes the penalty
20 for a crime or infraction, within the meaning of Section 17556 of
21 the Government Code, or changes the definition of a crime within
22 the meaning of Section 6 of Article XIII B of the California
23 Constitution.